

**THE EFFECTIVE DATE OF THIS ORDINANCE IS JULY 19, 2007**

**ORDINANCE NO. 07-25-465**

**AMENDMENTS TO THE FREDERICK COUNTY FOREST RESOURCE ORDINANCE**

The Frederick County Board of County Commissioners (BOCC) desires to adopt certain changes to the Forest Resource Ordinance – Chapter 1-21 of the Frederick County Code (FRO).

**BACKGROUND**

On December 15, 1992, as was required by the Maryland Forest Conservation Act of 1991 ("FCA"), the BOCC enacted the original Forest Resource Ordinance ("FRO") by Ordinance No. 92-29-064. Thereafter, several legislative changes to the FCA were made, and certain policy decisions related to the FRO were implemented by the Frederick County Planning Commission, but no corresponding revisions were made to the Forest Resource Ordinance.

In September 2001, the BOCC adopted significant changes to the Forest Resource Ordinance, in accordance with recommendations from the State of Maryland. These changes included the addition of the Forest Banking Program and incorporation of the State Forest Conservation Technical Manual. In addition, certain clarifications to the FRO were necessary with respect to guarantee requirements and forest stand delineation components. Because of the extensive nature of the revisions, the Forest Resource Ordinance was repealed and reenacted in its entirety.

In 2006, Commissioner Thompson submitted a FRO text amendment that was denied by the BOCC on August 1, 2006. As a result of those public discussions, the BOCC directed the Development Review Planning Staff to draft a "Staff-generated" FRO Text

Amendment. The Planning Commission reviewed the Staff-generated version on three occasions in the spring of 2007. The Planning Commission voted to recommend denial on May 23, 2007.

Commissioner Thompson also filed FRO text amendments in 2007, which were identical to those submitted in 2006. The Planning Commission voted to recommend denial of the 2007 Thompson FRO Text Amendments on March 21, 2007.

On June 19, 2007, the Board of County Commissioners held a duly advertised public hearing to discuss both the Staff-Generated FRO Text Amendment and the 2007 Thompson FRO Text Amendment. At the June 19, 2007 public hearing, the BOCC directed the Staff to revise its proposed ordinance to include certain elements of the 2007 Thompson FRO Text Amendment.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR FREDERICK COUNTY, MARYLAND, that the Forest Resource Ordinance - Chapter 1-21 of the Frederick County Code - is amended as described in this Ordinance:

**(A) § 1-21-2 of the Frederick County Code is hereby amended as follows:**

This chapter is established in accordance with the provisions of Md. Code Ann., Natural Resources Article, § 5-1603. **THE REQUIREMENTS OF THIS CHAPTER ARE SUPPLEMENTARY TO OTHER LAWS AND REGULATIONS IN FREDERICK COUNTY. WHERE THIS CHAPTER OR ANY PORTION THEREOF IMPOSES A GREATER RESTRICTION THAN IS IMPOSED BY OTHER REGULATIONS, THE PROVISION OF THIS CHAPTER SHALL CONTROL.**

**(B) Certain definitions in §1-21-5 of the Frederick County Code are hereby amended as follows:**

**DEPARTMENT.** The Frederick County ~~Department of Planning and Zoning~~ **DIVISION OF PERMITTING AND DEVELOPMENT REVIEW.**

\* \* \*

**LOCAL AGENCY.** Each unit in the executive branch of the County or Municipal government, including the Division of ~~Public Works~~ **PERMITTING AND DEVELOPMENT REVIEW.**

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**NET TRACT AREA.** The total area of a tract or development project, including both forested and nonforested areas, to the nearest one-tenth **ONE-HUNDREDTH** acre, reduced by the following areas:

- (1) Rights-of-way established for public roads and public utilities existing prior to the effective date of this chapter;
- (2) Permanent, surface water bodies;
- (3) Floodplain that is not to be developed may also be exempted, at the discretion of the applicant; and
- (4) In Agriculture and Resource Conservation zones, and as provided in § 1-21-41(C)(2), the areas of land use that will not be changed or intensified in land use.

\* \* \*

**WORKSHEET.** The official set of data **CALCULATED TO THE NEAREST ONE-HUNDREDTH ACRE**, defining the size of the net tract area together with the required forest calculations prepared on the worksheet published in the **TECHNICAL MANUAL.**

- (C) Sections 1-21-6, 1-21-7, 1-21-10, 1-21-20, 1-21-22, 1-21-25, 1-21-28, 1-21-29, 1-21-30, 1-21-41, 1-21-42, 1-21-43, 1-21-44, 1-21-51 and 1-21-52 of the Frederick County Code are hereby amended as follows:

#### **§ 1-21-6. APPLICABILITY AND GENERAL REQUIREMENTS.**

Except as provided in § 1-21-7, this chapter applies to property for which an application is being made for:

- (A) A subdivision; or a grading or sediment and erosion control permit for an area comprising 40,000 square feet or greater;
- (B) A public utility development project not exempt under § 1-21-7 that clears 40,000 square feet or more of forest;
- (C) ~~[The portion of a previously exempt Preliminary or Phase II development project, as provided in § 1-21-7, that does not have subdivision lots recorded in the Frederick County Land Records on or before January 1, 2002;~~

~~(D)~~— ]A site plan development project with a net tract area 40,000 square feet or greater that has not received Frederick County Planning Commission approval by January 1, 2002; and that does not have an approved sediment and erosion control plan approved by July 1, 2002.

#### § 1-21-7. EXEMPTIONS.

**[NOTE: §§1-21-7(A) through (E) remain unchanged]**

(F) **CONSTRUCTION OF A SINGLE-FAMILY HOUSE** [Activities conducted] on a single lot of record as of December 31, 1992, of any size, if the activity:

- (1) Does not result in the clearing or grading of 40,000 square feet or greater of forest;
- (2) Does not result in the clearing or grading of a forest that is subject to the requirements of a previous forest conservation plan prepared under this chapter;
- (3) Is the subject of a declaration of intent approved by the Department; provided however, if the lot has less than 40,000 square feet of forest, then the declaration of intent is not required; and
- (4) Is not being done pursuant to a site plan or subdivision plat;

**[NOTE: §§1-21-7(G) and (H) remain unchanged]**

~~[(J)]~~—Until January 1, 2002, a parcel that has a preliminary plan of subdivision approved before July 1, 1991. After January 1, 2002, all such preliminary plans shall lose their exempt status;

~~—(K)~~—Until January 1, 2002, a planned unit development that, by December 31, 1991, had obtained Phase II plan approval by the Planning Commission. After January 1, 2002, all such Phase II plans shall lose their exempt status;

~~—(L)]~~ **(J)** A real estate transfer to provide a security, leasehold, or other legal or equitable interest, including a transfer of title, of a portion of a lot or parcel, if:

- (1) The transfer does not involve a change in land use, or new development or redevelopment, with associated land-disturbing activities; and
- (2) A declaration of intent is approved by the Department;

~~[ (M) ]~~ **(K)** Non-commercial selective cutting of individual trees or other plant material in order to reduce susceptibility to pests or disease, to eliminate dead, dying or hazardous trees, or to eliminate non-native, invasive plant species or to accomplish non-commercial

timber stand improvement according to the prescriptions of a forest management plan prepared by a licensed forester.

#### § 1-21-10. PROTECTIVE AGREEMENTS.

(A) *Short Term Protective Agreement:*

(1) The applicant shall execute a Forest Improvements and Protection Agreement ("FIPA") that guarantees completion of the forest improvements shown in the final forest conservation plan.

(2) The applicant shall be subject to the A FIPA for a period of not less than **2 COMPLETE GROWING SEASONS FOR PROJECTS THAT CONTAIN ONLY EXISTING FOREST, OR 1" OR 2" CALIPER TREE PLANTINGS. THE APPLICANT SHALL BE SUBJECT TO A FIPA FOR A PERIOD OF NOT LESS THAN 3 COMPLETE GROWING SEASONS FOR PROJECTS THAT CONTAIN ANY SEEDLING, WHIP, TUBLING OR 1-5 GALLON CONTAINER PLANTINGS, OR ANY NATURAL REGENERATION AREAS .**

(2)(3) The applicant shall provide and keep in effect a financial guarantee for the entire effective period of the FIPA, as provided in § 1-21-25.

(3) Release of the guarantee shall be as described in § 1-21-25.

(4) The FIPA shall comply with COMAR 08.19.05.01.

(5) The FIPA shall be submitted on a form prepared by the Department.

#### § 1-21-20. ADMINISTRATIVE AGENCIES DESIGNATED.

(A) ~~*Department of Planning and Zoning*~~ **DIVISION OF PERMITTING AND DEVELOPMENT REVIEW ("DEPARTMENT")**.

(1) The review of all required plan submissions shall be administered by the Frederick County [~~Department of Planning and Zoning~~] **DIVISION OF PERMITTING AND DEVELOPMENT REVIEW** ("Department"). The Department shall also administer the fee-in-lieu program and the forest banking program.

(2) All applications, maps, and documents relative to plan submissions subject to the provisions of this chapter shall be submitted to the Department, which will have a fully qualified professional either on staff or under contract to review all information and to present the relevant information and the Department's recommendations to the Frederick County Planning Commission.

(3) The Department may refer the subdivision plan, site or development plan or grading or sediment and erosion control permit to any county agency or any other agency it deems appropriate for their review, comments or recommendations pertaining to the forest

resources. These recommendations shall be considered by the Planning Commission in making its decision.

**(4) THE DEPARTMENT INSPECTORS SHALL ADMINISTER ALL REQUIRED FINANCIAL GUARANTEES AND ANY FOREST IMPROVEMENT AND PROTECTION AGREEMENTS (FIPAS) REQUIRED BY THIS CHAPTER. A DEPARTMENT INSPECTOR WILL ADMINISTER FIELD CHECKS OF ALL REQUIRED FOREST IMPROVEMENTS AND MAY ISSUE PENALTIES AND CITATIONS FOR NONCOMPLIANCE WITH THIS CHAPTER.**

**(B) *Frederick County Planning Commission.***

(1) Approval of the preliminary and final forest conservation plans shall rest with the Frederick County Planning Commission ("FCPC"). The Department may also approve these plans as agents of the FCPC, in the case of minor subdivisions, final plats, site plans, and grading or sediment and erosion control permits.

(2) The FCPC shall accept county agency and public comments and consider these comments as part of the record and its decision making process.

~~[(C) Division of Public Works. The Division of Public Works ("DPW") shall administer all required financial guarantees and any forest improvement and protection agreements (FIPA's) required by this chapter. The Division of Public Works Environmental Preservation Agency ("DPW/inspector") will administer field checks of all required forest improvements and may issue penalties and citations for noncompliance with this chapter.~~

~~—[(D)]~~ **(C) *Treasurer's office and Department of Finance.*** Any funds collected or held under this chapter shall be deposited with the Treasurer for Frederick County and accounted for by the Department of Finance.

~~[(E)]~~ **(D) *County Attorney's Office.*** The County Attorney's office shall review for legal sufficiency all:

- (1) Protective agreements described in § 1-21-10; and
- (2) All legal agreements described in § 1-21-29.

## **§ 1-21-22. AMENDMENTS.**

**(A) *Amendment authority.*** The Board of County Commissioners may amend the provisions of this chapter if the County Commissioners determine that any such amendment will be in the best interest of the citizens of the county and consistent with the general intent of this chapter and Md. Code Ann., Natural Resources Article, §§ 5-1601 through 5-1612. Proposals for an amendment may be initiated by the Board of County Commissioners.

**(B) *Amendment procedures.*** Proposed amendments shall be filed with the Department ~~[and referred to the Division of Public Works]~~ for review and comment. The Department comments ~~[and comments received from the Division of Public Works]~~ shall be referred to the Planning Commission and County Commissioners for their consideration. The Planning Commission shall meet in public session on the proposed amendments and shall submit its recommendations or comments to the Board of County Commissioners. The Board of County Commissioners shall hold a public hearing on the proposed amendment and shall render a decision within 60 days of the public hearing, unless such time is extended by an official resolution adopted by the County Commissioners.

(C) *Appropriate notice.* Notice of the time and place of the public hearing, together with a summary of the proposed amendment shall be published in at least 1 newspaper of general circulation in the county once each week for 2 successive weeks, with the first such publication of notice appearing at least 14 days prior to the hearing.

(D) *State authority.* All amendments to this chapter are subject to the approval of the Department of Natural Resources.

## **§ 1-21-25. GUARANTEES FOR FOREST IMPROVEMENTS.**

(A) *Required Guarantees:* Persons required to conduct forest improvements and maintenance thereof under this chapter shall furnish to the Department for its approval a cost estimate (plus 15% contingency) for the completion of the required improvements **UNDER THE FOREST IMPROVEMENT AND PROTECTION AGREEMENT (FIPA)**. If the cost estimate equals or exceeds \$1,000, the applicant shall provide to the county a financial guarantee in the form of a cash escrow, an irrevocable letter of credit, or other surety approved by the Board of County Commissioners and the County Attorney's office. The guarantee shall be retained by the county to assure that the forest improvements under the ~~[associated forest improvements and protection agreement]~~ **FIPA** are conducted and maintained in accordance with this chapter and the approved final forest conservation plan.

(B) *Return of Guarantees:*

(1) **TO BE ELIGIBLE FOR PARTIAL OR FULL RETURN OR RELEASE OF FINANCIAL GUARANTEES, A SUBSTANTIAL AMOUNT OF LIVING SEEDLINGS/TREES MUST EXIST IN FOREST EASEMENT AREAS FOR THE DURATION OF THE FIPA MAINTENANCE PERIOD. THE DETERMINATION OF "SUBSTANTIAL AMOUNT OF LIVING SEEDLINGS/TREES" SHALL BE MADE BY DEPARTMENT INSPECTORS, WITH CONSIDERATION OF THE STOCKING AND SURVIVAL RATES PRESCRIBED IN § 1-21-43(D) AND (E). THE SEEDLINGS/TREES MUST MEET OR EXCEED THE STANDARDS OF THE TECHNICAL MANUAL, OR THIS CHAPTER, WHICHEVER APPLIES.**

(2) For development projects requiring **A 2-YEAR FIPA (PER § 1-21-10) THE FOLLOWING PROVISIONS SHALL APPLY:**

(A) **FOR PROJECTS REQUIRING** only protective fencing and/or signage, but no forestation; and for which the required improvements have been erected by the applicant and approved by **DEPARTMENT** ~~[DPW/]~~ inspectors, 50% of the financial guarantee may be returned or released upon approval by the **DEPARTMENT** ~~[DPW/]~~ inspectors. If the protective features remain in good repair for the duration of the forest improvements and protection agreement (FIPA), the remaining 50% shall be returned or released **WHEN THE APPLICANT HAS FULFILLED ALL OF THE REQUIREMENTS** ~~[at the end of the period]~~ of the FIPA.

(B) **FOR PROJECTS REQUIRING 1" OR 2" CALIPER TREE PLANTING, 50% OF THE FINANCIAL GUARANTEE MAY BE RETURNED OR**

**RELEASED AFTER 1 COMPLETE GROWING SEASON IF THE CONDITIONS OF § 1-21-25 (B) (1) ARE MET. IF AFTER 2 COMPLETE GROWING SEASONS THE CONDITIONS OF § 1-21-25 (B) (1) ARE MET, THE BALANCE OF THE GUARANTEE SHALL BE RETURNED.**

(2) (3) For development projects requiring A 3-YEAR FIPA (PER § 1-21-10) forestation or regeneration:

~~(a) A substantial amount of living seedlings/trees must exist in a forest easement area for the 2-year maintenance period for the project to be eligible for partial or full return or release of financial guarantees. The determination of "substantial amount of living seedlings/trees" shall be made by DPW/ inspectors, with consideration of the stocking and survival rates prescribed in § 1-21-43(D) and (E);~~

(b)(A) If after 1 complete growing season the required forestation or regeneration area **MEETS THE CONDITIONS OF § 1-21-25 (B) (1)** contains a substantial amount of living seedlings/trees and thereby meets or exceeds the standards of the technical manual, or this chapter, whichever applies, 25% of the amount of any guarantee that has been posted shall be returned or released;

(e)——(B) If after 2 complete growing seasons the forestation or regeneration area **MEETS THE CONDITIONS OF § 1-21-25 (B) (1)** contains a substantial amount of living seedlings/trees and the survival rate meets or exceeds the standards of the technical manual, or this chapter, whichever applies, **AN ADDITIONAL 25%** the remaining amount of the guarantee shall be returned or released;

**(C) IF AFTER 3 COMPLETE GROWING SEASONS THE FORESTATION OR REGENERATION AREA MEETS THE CONDITIONS OF § 1-21-25 (B) (1) THE BALANCE OF THE GUARANTEE SHALL BE RETURNED OR RELEASED;**

~~[(d)] If a substantial amount of living seedlings/trees is not maintained, new planting must occur, and the guarantee shall remain in effect for [2 ] [new] complete growing seasons, for each new planting, or until a forest has existed for [a 2-year period].~~

## **§ 1-21-28. PENALTIES AND ENFORCEMENT.**

(A) *Noncompliance penalties under this chapter.*

(1) A person found to be in noncompliance with this chapter, the associated forest conservation plan, **THE LONG-TERM PROTECTIVE AGREEMENT**, or the ~~[associated 2-year] FIPA [forest improvements and protection agreement]~~ shall be assessed by the ~~Division of Public Works ]~~**DEPARTMENT INSPECTORS** a penalty in an amount established by resolution of the Board of County Commissioners per square foot of the area found to be in noncompliance with required forest conservation or planting.

(2) Money collected under paragraph (1) of this subsection shall be deposited in the fee-in-lieu program and may be used by the county for purposes related to implementing forest improvements.

(B) *Violations.* In addition to the provisions under subsection (A), a person who violates any provision of this chapter is liable for a penalty not exceeding \$1,000 per violation, which may be recovered in a civil action brought by the Department.



(C) *Duration of violation.* Each day a violation continues is a separate violation.

(D) *Complaints.* The [~~Division of Public Works—Environmental Preservation Agency Inspectors (“DPW/Inspector”)~~] **DEPARTMENT INSPECTORS** shall receive complaints and initiate enforcement procedures when violations are confirmed. Any complaint received shall be acted upon routinely within 3 days, and the complainant shall be notified of any action or proposed action routinely within 7 days of receipt of the complaint.

(E) *Procedure for investigation.*

(1) When [~~the DPW/inspector~~] **A DEPARTMENT INSPECTOR** determines that a violation of the approved plan has occurred, the inspector shall notify the on-site personnel or the permittee in writing of the violation, describe the required corrective action and the time period in which to have the violation corrected.

(2) If the violation persists after the date specified for corrective action in the notice of violation, the [~~DPW/inspector~~] **DEPARTMENT INSPECTOR** shall stop work on that site. The [~~DPW/inspector~~] **DEPARTMENT INSPECTOR** shall determine the extent to which work is stopped, which may include all work on the site except that work necessary to correct the violation.

(3) If reasonable efforts to correct the violation are not undertaken by the permittee, the [~~DPW/inspector~~] **DEPARTMENT INSPECTOR** shall refer the violation for legal action.

(4) The [~~DPW/inspector~~] **DEPARTMENT INSPECTOR** may deny the issuance of any permits to an applicant when it determines that the applicant is not in compliance with the provisions of a building or grading permit or approved erosion and sediment control plan.

(5) Any step in the enforcement process may be taken at any time, depending upon the severity of the violation.

(6) If a person is working without a permit, the [~~DPW/inspector~~] **DEPARTMENT INSPECTOR** shall stop work on the site except activity necessary to provide erosion and sediment control.

(F) *Civil infractions.*

(1) Pursuant to the authority provided in §§ 2-2-28 and 2-2-29 of the Frederick County Code, any violation of any of the provisions of this chapter is a civil offense and shall be called a civil infraction. If, after investigation, a civil infraction is believed to exist, the Director of [~~DPW~~] **THE DEPARTMENT** or an authorized agent shall deliver a citation or a warning to the property owner and other person or persons responsible for the infraction. If the person is unable to be located personally, the [~~DPW~~] **DIRECTOR OF THE DEPARTMENT** or the authorized agent may post the citation or warning in a conspicuous place on the property and mail a copy of same by registered mail to the person, which shall be sufficient for delivery under this section.

(2) The citation or warning, as provided in this section, shall be in writing and shall contain the following:

- (a) The name and address of the person charged (or warned);
- (b) The nature of the violation;
- (c) The location of the violation;
- (d) The date(s) of the violation;
- (e) The amount of the fine assessed (or possibility of assessment);
- (f) The manner, location and time in which the fine may be paid (or violation corrected, if applicable);
- (g) The person's right to stand trial for the violation (if applicable); and
- (h) A certification by the [DPW] Director **OF THE DEPARTMENT** or the authorized agent attesting to the truth of the matters set forth.

(3) Whenever an alleged or possible civil infraction comes to the attention of the [DPW] Director **OF THE DEPARTMENT**, the procedure to be followed is:

- (a) That the Director or the agent will investigate whether an infraction has occurred; and
- (b) That, if the Director or the agent reasonably finds that an infraction has occurred, the Director will issue a warning to the person or persons responsible in the form and manner as outlined in this section, with a time stated of no more than 10 days to correct the infraction and to prevent future infractions.

#### **§ 1-21-29. FOREST BANKING PROGRAM.**

**[NOTE: §1-21-29(A) remains unchanged]**

(B) *Forest Banking Areas.* Only the following **TARGET** areas may be admitted into the forest banking program:

(1) New or existing forests that provide buffers for streams, creeks, floodplains, wetlands or other hydrologically-sensitive areas on lands that either are zoned Agriculture or in the judgment of the Department are primarily in bona fide agricultural use, as defined by the Frederick County Zoning Ordinance, Chapter 1-19. **THE EXTENT OF THE FOREST BUFFERS ACCEPTABLE FOR INCLUSION IN THE FOREST BANKING PROGRAM SHALL BE THE LARGEST ALLOWED BY THE FOLLOWING, UNLESS OTHERWISE APPROVED BY THE DEPARTMENT FOR REASONS PERTAINING TO ECOLOGICAL BENEFIT OR IMPROVEMENT:**

**(a) WHERE FLOODPLAIN(S) EXIST, FOREST BUFFERS SHALL BE LIMITED TO 25 FEET OUTSIDE OF THE FLOODPLAIN(S).**

**(b) WHERE NO FLOODPLAIN(S) EXIST, FOREST BUFFERS SHALL BE LIMITED TO 100 FEET IN WIDTH ON EACH SIDE OF A STREAM BANK.**

**(c) WHERE MODERATE SLOPES OF 15% OR MORE ARE IMMEDIATELY ADJACENT TO HYDROLOGICALLY-SENSITIVE AREA(S), FOREST BUFFERS SHALL BE LIMITED TO THE EXTENT OF THE STEEP**

**SLOPES WITHIN THE AREA THAT IS 200 FEET IN WIDTH ON EACH SIDE OF A STREAM BANK OR HYDROLOGICALLY-SENSITIVE AREA.**

**(d) WHERE STEEP SLOPES OF 25% OR MORE ARE IMMEDIATELY ADJACENT TO HYDROLOGICALLY-SENSITIVE AREA(S), FOREST BUFFERS SHALL BE LIMITED TO THE EXTENT OF THE STEEP SLOPES WITHIN THE AREA THAT IS 500 FEET IN WIDTH ON EACH SIDE OF A STREAM BANK OR HYDROLOGICALLY-SENSITIVE AREA.**

(2) Existing forest that is critical habitat for threatened or endangered plant or sedentary animal species. Determination of the presence of threatened or endangered species shall be made by the Department of Natural Resources.

(3) Other areas that are:

a) Water re-charge zones for municipal or county public water supplies as designated by bona fide hydrological studies, or are listed in § 1-21-40(B) of this chapter;

(b) Not owned by a municipality or other local, state or federal governmental entity;

(c) Not otherwise substantially protected by either this chapter or the Frederick County Zoning Ordinance requirements; and

(d) Of such significance that loss of forest or the lack of creation of forests on such areas would cause a deleterious affect on the health, safety and welfare of the citizens.

(4) For all subsection (B)(3), the first 50 acres shall be credited at a 1:2.5 ratio, as described in subsection (E) of this section. For all areas that exceed 50 acres, the mitigation ratio shall be 1:4, meaning that for every 1 acre of required forestation, 4 acres of off-site, existing forest must be protected and conserved. In no case shall the total acres of such an application exceed 200 acres.

**(5) ALL APPLICATIONS UNDER THIS SUBSECTION B SHALL PROVIDE SUBSTANTIAL PROTECTION OF SUBSTANTIALLY ALL OF THE TARGET AREAS ON A PARCEL OR A SET OF CONTIGUOUS PARCELS OWNED BY THE APPLICANT, UNLESS OTHERWISE APPROVED BY THE DEPARTMENT OR THE PLANNING COMMISSION FOR REASONS PERTAINING TO ECOLOGICAL BENEFIT OR IMPROVEMENT, OTHER HYDROLOGICAL PROTECTION MEASURES IMPLEMENTED BY OTHER GOVERNMENTAL PROGRAMS, ACCOMMODATION OF EXISTING FARM BUILDINGS AND RESIDENCES, OR DRINKING WATER ACCESS FOR GRAZING ANIMALS. THE REQUIREMENTS OF "SUBSTANTIAL PROTECTION" SHALL BE DETERMINED BY THE DEPARTMENT. APPLICATIONS THAT OFFER PROTECTION OF ONLY UNSERVICEABLE OR UNUSABLE AREAS FOR INCLUSION IN THE BANKING PROGRAM, BUT OMIT OTHER SUBSTANTIAL TARGET AREAS, SUCH AS STREAM BUFFERS, WITHIN A SUBJECT PARCEL OR SET OF CONTIGUOUS PARCELS OWNED BY THE APPLICANT, SHALL NOT BE ACCEPTED INTO THE BANKING PROGRAM.**

(C) *Administration.* The Department shall administer the forest banking program, review for approval all forest conservation plans, and keep records of all forest banking sites and any transfers of forest bank credits from one person to another. The Department shall review and have the authority to approve all credit transfers for compliance with forest banking area requirements. The Department of Public Works (DPW) shall perform all site inspections as required herein, and as described in § 1-21-20, and shall administer required financial guarantees associated with approved forest conservation plans.

(D) *Conditions of approval.* For a potential forest banking site to be accepted into the Frederick County Forest Banking Program, all the conditions set forth below must be satisfied.

(1) [ *Letter of intent.* The forest banking applicant shall submit either a letter of intent or a forest conservation plan that identifies the area of forest to be included in the forest banking program. Upon receipt of a letter of intent, the Department shall review the site for compliance with forest banking area criteria.

(2) ] *Forest conservation plan.* The forest banking applicant shall submit a forest conservation plan for review and approval by the Department.

[~~(3)~~](2) *Standards and specifications.*

(a) To create “new forest,” the applicant must follow forestation specifications and standards provided in the technical manual or this chapter, including (but not limited to) species selection, control of exotic species, and stocking/survival ratios.

(b) For approval of “existing forest,” the applicant must demonstrate that the forest ecosystem is in a healthy condition, or provide remedial measures to bring the forest into a healthy condition, such as providing eradication measures to control invasive, exotic species.

[~~(4)~~](3) *Legal documents and financial guarantees.* The applicant shall execute and submit to the Department all necessary documents and financial guarantees as follows:

- (a) A long-term protective agreement, as described in § 1-21-10;
- (b) A short-term protective agreement (a Forest Improvements and Protection Agreement (FIPA)), as described in § 1-21-10 and any associated, required financial guarantee, as described in § 1-21-25; and
- (c) A forest banking agreement that describes the rights and obligations of the banking applicant with regard to the forest easement credit transfers.

[~~(5)~~](4) *Site inspection.* Before the Department approves a transfer or use of forest banking credits, the Department shall verify from DPW/ **THE DEPARTMENT** inspector’s site review that the conditions of the approved final forest conservation plan have been met with regard to establishment of protective features and planting specifications; and that any:

- (a) “Existing forest” meets the definition of “standard forest density,” or is covered by an acceptable financial guarantee, as provided in § 1-21-25;
- (b) “New forest” has been planted, and either:

1. Has matured to meet the definition of “standard forest density;” or

2. Is covered by an acceptable FIPA and a financial guarantee, as provided in § 1-21-25; has been planted in accordance with the final forest conservation plan; and has been inspected and approved by ~~DPW/~~ **DEPARTMENT** inspectors.

~~[(6)]~~ **(5)** *Financial agreements.* Any financial agreements between persons regarding approved forest bank transfers shall occur solely as a private transaction. Neither the Department nor the county shall become a party to the financial aspects of any transfers.

~~[(7)]~~ **(6)** *Official notification of credit transfer.* Both the grantor and grantee of any forest credit transfer shall notify the Department in writing of the agreement to transfer forest credit using forms approved by the Department.

(E) *Credit Ratios:* Forest bank transfers of:

(1) “Existing forest” shall be credited at a 1:2.5 ratio, meaning that for every 1 acre of required forestation, 2.5 acres of existing forest must be acquired;

(2) “New forest” shall be credited at a 1:1 ratio, meaning that for every 1 acre of required forestation, only 1 acre of new forest must be acquired.

**(F) SPECIES DIVERSITY REQUIREMENTS: THE ACRES OF EXISTING FOREST COMBINED WITH NEW FOREST SHALL MEET THE SPECIES DIVERSITY REQUIREMENTS STIPULATED IN SECTION 1-21-43 (B) (2).**

#### **§ 1-21-30. PLANS IN GENERAL.**

**(A) PLAN APPLICATIONS: APPLICANTS SHALL SUBMIT ALL PLANS ON DEPARTMENT-APPROVED APPLICATION FORMS AND APPLICABLE FEES. APPLICATIONS SHALL BE VALID FOR 3 YEARS AFTER SUBMISSION. THEREAFTER, THE APPLICANT MUST RESUBMIT WITH NEW APPLICATION FORMS AND FEES.**

**(B) PERIOD OF VALIDITY: ALL PLANS APPROVED AND SIGNED BY DEPARTMENT REPRESENTATIVES SHALL BE VALID FOR A PERIOD OF 5 YEARS, UNLESS VESTED BY EXECUTION OF THE SHORT-TERM PROTECTIVE AGREEMENT DESCRIBED IN SECTION 1-21-10(A) AND THE LONG-TERM PROTECTIVE AGREEMENT DESCRIBED IN SECTION 1-21-10 (B).**

~~[(A)]~~ **(C)** *Required Submissions and Permitted Combinations.*

- (1) Three sequential submissions are required:
- (a) A forest stand delineation (FSD);
  - (b) A preliminary forest conservation plan (PFCP); and
  - (c) A final forest conservation plan (FFCP), which includes any required legal documents and financial guarantees for forest retention or forest improvements.

(2) The first 2 submissions (the FSD and PFCP) may be submitted simultaneously as a combined submission for all activities regulated under this chapter.

(3) For:

- (a) All minor subdivisions;
- (b) Site plan projects that comprise not more than 50 acres; and
- (c) Grading or sediment and erosion control permits that comprise not more than 50 acres— ,

(4) ~~all~~ ALL 3 forest plan submissions may be submitted as a “combined delineation and preliminary/final forest conservation plan. A “combined delineation and preliminary/final forest conservation plan” shall contain all requirements of the FSD, PFCP, and FFPC.

**[NOTE: The balance of §1-21-30 shall be renumbered in accordance with these changes (e.g., current subsection (B) becomes subsection (D), etc.).]**

#### **§ 1-21-41. AFFORESTATION AND AFFORESTATION THRESHOLD.**

**[NOTE: §§1-21-41(A) through (C) remain unchanged.]**

(D) *Afforestation Requirements:* ~~Afforestation on a tract or development project shall be in accordance with the following requirements:~~

~~\_\_\_\_\_ (1) A tract or development project having less than 20% of the net tract area in forest cover shall be afforested to at least 20% of the net tract area for the following zoning categories:~~

- ~~\_\_\_\_\_ (a) Agriculture;~~
- ~~\_\_\_\_\_ (b) Resource Conservation; and~~
- ~~\_\_\_\_\_ (c) R-1 Residential.~~

~~\_\_\_\_\_ (2) A tract or development project with less than 15% of its net tract area in forest cover shall be afforested up to at least 15% of the net tract area for the following zoning categories:~~

- ~~\_\_\_\_\_ (a) Institutional uses in any zone;~~
- ~~\_\_\_\_\_ (b) R-3, R-5, R-8, R-12, R-16 residential zones and mobile home parks;~~
- ~~\_\_\_\_\_ (c) Mixed-use and planned unit development zones; and~~
- ~~\_\_\_\_\_ (d) Commercial and industrial use zones.~~

(E) *Forest Removal below Afforestation Thresholds.* Replacement requirements for removal of forest, even if below the afforestation threshold, are addressed in the reforestation formulas listed in § 1-21-42(D)(3) and applicants do not need to calculate replacement values separately under this section.

#### **§ 1-21-42. REFORESTATION AND CONSERVATION THRESHOLD.**

(A) ***APPLICABILITY:*** A PERSON MAKING APPLICATION FOR A REGULATED ACTIVITY UNDER THIS CHAPTER (INCLUDING UTILITY AND LINEAR PROJECTS) SHALL COMPLY WITH THE REFORESTATION REQUIREMENTS PROVIDED IN THIS SECTION. REQUIRED REFORESTATION SHALL BE INCORPORATED INTO THE FINAL FOREST CONSERVATION PLAN (FFCP). REFORESTATION PER THE FFCP SHALL BE ACCOMPLISHED IN ACCORDANCE WITH THE PRIORITIES LISTED IN § 1-21-40(C) AND (D).

(B) ***CALCULATION OF REQUIREMENTS:*** THERE SHALL BE TWO METHODS TO CALCULATE REFORESTATION REQUIREMENTS. THE METHOD THAT RESULT IN THE MORE STRINGENT REQUIREMENT SHALL BE USED. THE FIRST METHOD SHALL REQUIRE A 1:1 REPLACEMENT—MEANING FOR EVERY ONE ACRE OF FOREST REMOVED, ONE ACRE MUST BE PLANTED. THE SECOND METHOD SHALL BE THE METHOD OF CALCULATING REFORESTATION REQUIREMENTS DESCRIBED IN SUBSECTION 1-21-42 (C). THIS METHOD SHALL BE CALLED THE “STANDARD METHOD”.

(C) *Definitions Restated FOR THE STANDARD METHOD:* REFORESTATION under this section means the planting of trees to replace forest that has been recently or is proposed to be removed by development. *CONSERVATION THRESHOLD* means the percentage of the net tract area at which the reforestation requirement changes from a ratio of one-quarter acre planted for every ONE (1) acre removed to a ratio of TWO (2) acres planted for every ONE (1) acre removed according to the land use categories as listed below:

Category of Use	Threshold Percentage
(1) Agricultural and Resource Conservation Zones, Except for cluster developments therein which shall utilize R-1 values	50
(2) R-1 Residential zoned areas	25
(3) Institutional use areas in any zone	20
(4) R-3, R-5, R-8, R-12, R-16 and Mobile Home Park zoned areas	20
(5) Mixed Use and Planned Unit Development zoned areas	15
(6) Commercial and Industrial Use zoned areas	15

~~(B) *Applicability:* A person making application for a regulated activity under this chapter (including utility and linear projects) shall comply with the reforestation requirements provided in this section.~~

~~(C) *Reforestation Requirements:*~~ Required reforestation **UNDER THE STANDARD METHOD** shall be calculated according to the formulas provided in subsection (D) of this section and ~~shall be incorporated into the final forest conservation plan (FFCP).~~ Reforestation ~~per the FFCP shall be accomplished in accordance with the priorities listed in § 1-21-40(C) and (D).~~

(D) *Calculations* **FOR THE STANDARD METHOD:**

(1) For all existing forest cover cleared on the net tract area above the applicable conservation threshold established by subsection (A) of this section, the area of forest removed shall be reforested at a ratio of one acre planted for every acre removed.

(2) For all existing forest cover cleared on the net tract area below the applicable conservation threshold, the area of forest removed shall be reforested at a ratio of 2 acres planted for each acre removed.

(3) For each acre of forest retained on the net tract area above the applicable conservation threshold, credit shall be given against the total number of acres required to be reforested under subsection (D) (1) of this section.

(E) **ACCURACY STANDARDS:** All calculations of reforestation requirements shall be **CALCULATED TO THE NEAREST ONE-HUNDREDTH ACRE AND SHALL BE** in accordance with the worksheet provided in the Technical Manual and approved by the Department. **HOWEVER, [All]forest FIELD measurements [shall]MAY be MEASURED** to the nearest one-tenth acre.

**§ 1-21-43. SPECIFICATIONS AND STANDARDS FOR CONSERVATION AND FORESTATION.**

(A) *Technical Manual Standards:* The forest conservation and forestation (planting) specifications and standards provided in the Final Forest Conservation Plan shall be equal to or greater than the specifications and standards provided in the Technical Manual, unless otherwise approved by the Department, or unless otherwise provided in this Ordinance.

(B) *Species Selection:*

**(1)** Tree and shrub species used for forestation shall be native to Frederick County, and adapted to the particular site where the forestation is proposed, unless otherwise approved by the Department.

**(2) UNLESS MODIFIED BY THE DEPARTMENT, FOREST PLANS SHALL MEET THE MINIMUM SPECIES-DIVERSITY RATES FOR TREE AND SHRUB SPECIES ACCORDING TO THE FOLLOWING TABLE :**

TOTAL ACRES	TOTAL SPECIES REQUIRED (INCLUDING SPECIES FOUND IN EXISTING FOREST ON-SITE)
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OF FOREST EASEMENT AREA IN A DEVELOPMENT PROJECT (INCLUDING EXISTING FOREST)	DECIDUOUS OVER- STORY TREES	DECIDUOUS UNDERSTORY TREES AND SHRUBS	EVERGREEN OVER AND UNDER-STORY TREES AND SHRUBS	
0 - 1.0	4	1	none	
1.1 - 3.0	5	2		
3.1 - 8.0	6	3	1	*1-4% OF TOTAL PLANTING
8.1 - 14.0	8	4	1	
14.1 - 20.0	9	4	2	
20.1 OR GREATER	10	5	2	

**\*EXCEPT FOR PLANTINGS INTENDED FOR SCREENING, THEN THE EVERGREEN PERCENTAGE MAY INCREASE.**

(C) *Invasive Exotic Species:*

(1) Invasive exotic species listed in the Technical Manual, or by the Department of Natural Resources, or the United States Fish and Wildlife Service, shall not be used for forestation or landscape planting.

(2) Areas ~~heavily~~ **SIGNIFICANTLY** infested, **AS DETERMINED BY THE DEPARTMENT**, with invasive exotic tree or shrub species shall be subject to ~~an eradication~~ **A SUPPRESSION** effort guided by a ~~n-eradication~~ **SUPPRESSION** plan prepared as part of the Final Forest Conservation Plan.

(D) *Stocking And Survival Rates:* The stocking and survival rates of trees and shrubs planted as part of forestation requirements in Frederick County shall be as follows:

(1) Bare root seedlings and whips shall have a minimum stocking ratio of 600/acre, and shall have a 75 percent survival rate, or at least 450/acre. **BOTH OVERSTORY TREE AND UNDERSTORY TREE/SHRUB SPECIES MAY BE COUNTED AS PART OF THE 600 SEEDLING/ACRE REQUIREMENT; HOWEVER, OVERSTORY TREES (DECIDUOUS AND EVERGREEN) SHALL CONSTITUTE AT LEAST 75% OF THE TOTAL NUMBER OF SEEDLINGS PLANTED.**

(2) Container grown seedling tubes (with a minimum cavity width of 1.5 inch) shall have a minimum stocking ratio of 450/acre and shall have a 75 percent survival rate, or at least 338/acre. **BOTH OVERSTORY TREE AND UNDERSTORY TREE/SHRUB SPECIES MAY BE COUNTED AS PART OF THE 450 SEEDLING REQUIREMENT; HOWEVER, OVERSTORY TREES (DECIDUOUS AND**

**EVERGREEN) SHALL CONSTITUTE AT LEAST 75% OF THE TOTAL NUMBER OF SEEDLINGS PLANTED.**

(3) Seedlings and whips planted with tree shelters, or Container grown 1, 2, or 3 gallon plants shall have a minimum stocking ratio of 350/acre, and shall have a 75 percent survival rate, or at least 260/acre **BOTH OVERSTORY TREE AND UNDERSTORY TREE/SHRUB SPECIES MAY BE COUNTED AS PART OF THE 350 SEEDLING REQUIREMENT; HOWEVER, OVERSTORY TREES (DECIDUOUS AND EVERGREEN) SHALL CONSTITUTE AT LEAST 75% OF THE TOTAL NUMBER OF SEEDLINGS PLANTED.**

(4) 1 inch caliper balled & burlapped (B & B) **OVERSTORY** trees shall have a minimum stocking ratio of 200/acre and shall have a 75 percent survival rate, or at least 150/acre[.]; **AND SHALL BE SUPPLEMENTED WITH UNDERSTORY TREE/SHRUB PLANTINGS USING 1, 2, OR 3 GALLON CONTAINERS PLANTED AT 100/ACRE, WITH A 75 PERCENT SURVIVAL RATE, OR AT LEAST 75/ACRE.**

(5) Two-inch caliper B & B **OVERSTORY** trees shall **HAVE** a minimum stocking ratio of 100/acre and shall have a 100 percent survival rate, or at least 100/acre and shall be supplemented with understory **TREE/SHRUB** plantings using 1, 2, or 3 gallon [~~shrub/tree species~~ **CONTAINERS** planted at 100/acre, with a [~~50~~75] percent survival rate, or at least [~~50~~75]/acre.

(E) *Natural Regeneration:* For areas that are designated as "natural regeneration" on the Final Forest Conservation Plan (FFCP), or for forestation areas designated on the FFCP:

(1) The areas should not be cleared or graded without approval by the Department, after the Applicant has demonstrated the benefits of such activity.

(2) Volunteer seedlings of native tree or shrub species that emerge in the forest easement areas as a result of natural regeneration may satisfy forestation requirements, provided the [~~seedlings~~]**WHIPS** meet a stocking/survival ratio of at least 400 living seedlings per acre during and at the end of the **THREE**-year maintenance period.

(3) Volunteer seedlings may be counted pro rata in conjunction with planted trees and shrubs, in accordance with their respective required stocking/survival ratios. Planting requirements for a particular area will be met if the percentage of the stocking/survival ratio met by volunteer seedlings added to the percentage of the stocking/survival ratio met by the planted trees or shrubs totals 100 percent or more.

(F) *Site Preparation:* For forests in proposed development projects:

(1) Proposed forest easement areas that are near planned wooded home sites created by selective clearing may need to receive selective cutting, pruning or other treatments designed to create a healthy forest. Reductions of overstocked forests to not less than 80 square feet of basal area/acre should be considered. Any such forest cutting or

thinning shall be approved by the Department and done pursuant to a plan prepared by a licensed forester.

(2) Selective cutting, but not clearing, of trees and other woody plants in areas to be retained as forest easement areas may be permitted prior to the submission of a development project application without loss of credit for forest retention in Worksheet calculations if the:

- (a) "standard forest density" is maintained or exceeded;
- (b) selective cutting is approved by the Department prior to the commencement of forest cutting activities;
- (c) enhancement of forest health and quality is intended; and
- (d) selective cutting is done in accordance with a plan prepared by a licensed forester.

#### **§ 1-21-44 MISCELLANEOUS FOREST CREDITS**

**(A) *IN GENERAL:* AFTER ALL ON-SITE PRIORITY AREAS LISTED IN SECTION 1-21-40(B)(1) HAVE BEEN OR ARE SHOWN TO BE COVERED BY LONG-TERM PROTECTIVE AGREEMENTS, THE FOLLOWING TYPES OF FOREST/TREE CATEGORIES MAY BE USED AT VARIOUS RATIOS AS SPECIFIED IN THIS CHAPTER TOWARD MEETING FOREST REQUIREMENTS AS PART OF A FINAL FOREST CONSERVATION PLAN:**

**(1) BIO-RETENTION STORMWATER MANAGEMENT PONDS AND RAIN GARDENS THAT CONTAIN NATIVE TREES AND SHRUBS; AND**

**(2) CERTAIN TREE AND SHRUB CANOPY AREA.**

**(B) *REQUIREMENTS FOR STORMWATER MANAGEMENT PONDS AND RAIN GARDENS:* THE AREA(S) OF CANOPY COVER (PROJECTED AT A 20-YEAR GROWTH RATE) OF BIO-RETENTION STORMWATER MANAGEMENT PONDS AND RAIN GARDENS MAY BE USED AT A 1:1 RATIO, AND SHALL MEET THE FOLLOWING CRITERIA:**

**(1) TREE AND SHRUB DENSITY SHALL MEET OR EXCEED ANY OF THE VARIOUS STOCKING AND PLANTING RATIOS DESCRIBED IN SECTION 1-21-44 (D).**

**(2) THE AREA IS PROTECTED IN A STORM-WATER AGREEMENT THAT IS PROTECTED UNDER A LONG-TERM MANAGEMENT AGREEMENT.**

**[~~(A)~~] (C) *Eligible Types of Tree or Shrub Canopy AREA:* The canopy area of the following types of trees or shrubs **MAY BE USED AT A 1:1/4 RATIO, MEANING****

**THAT FOR EVERY ONE ACRE OF CANOPY AREA, .25 ACRES OF CREDIT** may be given ~~[miscellaneous credit]~~ toward meeting forestation requirements ~~[as part of a Final Forest Conservation Plan]~~:

(1) Proposed landscaping or street trees not in forest settings at their expected 20-year growth. The standard canopy area for each landscape and street tree planted shall be calculated at a diameter of 30 feet unless otherwise approved by the Department.

(2) Existing trees and shrubs **THAT ARE HEALTHY AND STRUCTURALLY SOUND ARE** designated as "tree save area" in forest conservation plans; **AND** ~~[that]~~ meet **ANY OF** the following criteria:

- (a) Individual trees and shrubs associated with historic places;
- (b) ~~[Healthy and structurally sound]~~ Specimen and champion trees not part of a forest setting; or
- (c) Forest areas that are not part of priority areas that are counted as "removed/cleared" forest for purposes of Worksheet calculations.

~~[(B)]~~ **(D)** *Required Protection OF TREE AND SHRUB CANOPY AREA:* The trees and forest areas listed in Subsection ~~A~~ **C** of this Section shall be required to be protected by short-term protective agreements, as provided in Sections 1-21-10 and 34, but shall not be subject to long-term protective agreements.

~~[(C)]~~ *Credit Ratio:* ~~Trees and forest authorized to receive miscellaneous credits shall be given credit for only 1/4 of the canopy area toward fulfillment of forestation requirements.~~

~~[(D)]~~ **(E)** *Limitations IN THE USE OF* ~~[.]~~ *Miscellaneous credits:*

**MISCELLANEOUS CREDITS USED IN A DEVELOPMENT PROJECT**

~~[(1) may be used only after all priority areas listed in Section 1-21-40 B(1) have been covered by long-term protective agreements; and~~

~~(2) ]~~ shall not account for more than 25% of the total forestation requirements of a tract or development project.

**§ 1-21-51. SITE WORK, IN GENERAL.**

(A) *Preconstruction meeting.* Before cutting, clearing, grading, or construction begins on a tract or development project for which a final forest conservation plan (FFCP) is required by this chapter, the applicant shall demonstrate to the ~~[DPW/]~~ **DEPARTMENT** inspector that the protective devices for retained forest and trees have been erected in accordance with the FFCP; and a preconstruction meeting shall be held on-site with a ~~[DPW/]~~ **DEPARTMENT** inspector.

(B) *Restriction on site clearing.* Excepting the cases of septic percolation testing and survey lines as provided in § 1-21-31(A)(2), if a forest conservation plan is required by this chapter for a tract or development project, a person may not cut, clear, or grade on the development site until the Department has approved the FFCP or provided written agreement to proceed with tree cutting, or the person will be in violation of this chapter.

(C) *Work completion.* Initial planting and erection of protective forestation devices required by the FFCP must be completed within 1 year or 2 growing seasons, whichever is greater, following completion of final site grading.

(D) *Correcting soil compaction.* Any area to receive planting that has been compacted by construction activity or machinery shall have the compacted soil mitigated so that normal root growth and plant development may occur.

**§ 1-21-52. MAINTENANCE OF PLANT MATERIAL; MINIMUM PERIOD OF LIVING PLANT MATERIAL.**

The applicant shall maintain any planted seedlings, shrubs, or trees in a living and healthy condition during the [2]-year FIPA maintenance period, such that a substantial amount of living seedlings/trees exist in the forest easement area during the [2] year FIPA maintenance [program]-PERIOD, as determined by [DPW/-] DEPARTMENT inspectors, and as described in § 1-21-25(B)(2).

**(D) Transitional Provisions:** The following transitional provisions shall apply:

(1) The amendments and revisions to the FRO enacted by the Ordinance shall apply to:

- (a) Any MXD plan, PUD Phase II plan, preliminary plat, site development plan, sediment control permit, or project plan; and
- (b) Any revised MXD plan, PUD Phase II plan, preliminary plat, site development plan, sediment control permit, or project plan resulting in an increase in density or intensity of use,

received by the Planning Department **on or after** the effective date of this Ordinance for approval, reapproval or extension.

(2) The provisions of the FRO as they existed before adoption of this Ordinance shall apply to:

- (a) Any MXD plan, PUD Phase II plan, preliminary plat, site development plan, sediment control permit, or project plan; and

(b) Any revised MXD plan, PUD Phase II plan, preliminary plat, site development plan, sediment control permit, or project plan resulting in an increase in density or intensity of use,

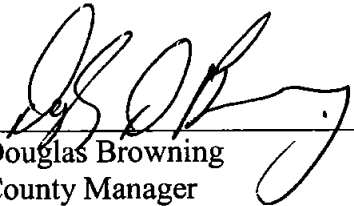
received by the Planning Department **before** the effective date of this Ordinance for approval, reapproval or extension.

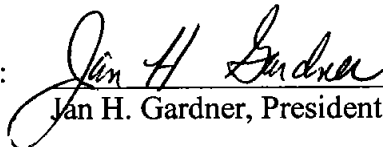
AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall be effective as of July 19, 2007.

The undersigned hereby certify that this Ordinance was approved and adopted on the 19th day of July, 2007.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF  
FREDERICK COUNTY, MARYLAND

  
\_\_\_\_\_  
Douglas Browning  
County Manager

BY:  (SEAL)  
\_\_\_\_\_  
Jan H. Gardner, President

KAM  
7/20/07